

Claims 17-28 are hereby submitted for consideration.

No new matter has been added.

In paragraph 1 of the Office Action the Examiner acknowledged the Applicant's claim for priority, based upon an application filed in Japan on October 24, 1997. However, the Examiner contends that this application can not claim benefits of priority under 35 U.S.C. § 119(a)-(d) because this application was filed more than one year after the filing date of the Japanese Application.

Applicant respectfully disagrees with the Examiner's contention and submits the following remarks in response.

The present application was filed on January 25, 2001, a copy of the filing receipt is enclosed as Exhibit 1. Applicant notes, that both the filing receipt and page one of the specification, as amended by Preliminary Amendment filed with the Application, state that the present application is a continuation application of U.S. Patent Application No. 09/176,579.

Applicant has amended the specification herein to correct the statement of the filing date for the U.S. Patent Application No. 09/176,579 to October 21, 1998 and to update the specification to include that the parent application has now matured into U.S. Patent No. 6, 212,210 on April 3, 2001. A copy of the cover page of U.S. Patent Application No. 6,212,210 is attached hereto as Exhibit 2. It is clear from the filing dates of the present application and the parent '210 patent that priority to the parent '210 patent is proper under 35 U.S.C. § 120, "if filed before the patenting or abandonment of or termination of proceedings on the first application..." The present application was filed on January 25, 2001, three months prior to the patenting of the

parent '210 patent on April 3, 2001.

Furthermore, 35 U.S.C. § 120 states that,

“An application for patent for an invention disclosed in the manner provided by the first paragraph of section 112 of this title in an application previously filed in the United States, or as provided by section 363 of this title, which is filed by an inventor or inventors named in the previously filed application *shall have the same effect, as to such invention, as though filed on the date of the prior application.*” (emphasis added)

As indicated on the cover sheet, the parent U.S. Patent No. 6,212,210, maintains a priority date of October 24, 1997 based on Japanese Patent Application No. 9-292228. As stated in 35 U.S.C. § 119(a), a patent is entitled to the benefit of foreign priority if, “...the application in this country is filed within twelve months from the earliest date on which such foreign application was first filed.” As such, the parent '210 patent is entitled to the benefit of priority date the October 24, 1997 because it was filed on October 21, 1998, less than twelve months after the foreign filing. A certified copy of the priority document was submitted to the U.S. Patent Office in the parent '210 patent on November 20, 1998. A copy of the certified priority document is attached hereto as Exhibit 3. Acknowledgement of the priority date and receipt of the certified copy of the priority document were made in the Notice of Allowability in the '210 patent, dated November 6, 2000. A copy of the Notice of Allowability for the parent application is attached hereto as Exhibit 4.

As such, Applicant respectfully submits, that the present invention has properly asserted priority under both the provisions of 35 U.S.C. § 119 and 120 and that the present application should be afforded the same effective filing date as its parent application which is October 24, 1997, based on Japanese Patent Application No. 9-292228.

In paragraph 2 of the Office Action the Examiner has rejected claims 17, 18, 22, 25 and

27 under 35 U.S.C. § 112 as being indefinite for failing to particular point out and distinctly claim the subject matter which the applicant regards as the invention. Applicant has amended claims 17, 18, 22, 25 and 27 accordingly and respectfully requests that the rejection of these claims be withdrawn. Applicant further notes that the amendments to the claim language are made solely to comply with the requirements of 35 U.S.C. § 112 and in no way are directed to the substantive rejections addressed below.


In paragraph 3 of the Office Action, the Examiner has rejected claims 17-28 under 35 U.S.C. § 102 as being anticipated by Stat Jr. et al. (U.S. Patent No. 6,389,046). However, Applicant notes that the filing date of Stat Jr. is April 12, 1999, well after both the filing date of the '210 patent and the priority date as discussed in detail above. As such, Applicant respectfully requests that the rejection of claims 17-28 in view of Stat Jr. be withdrawn, as Stat. Jr. is not prior art.

As such, Applicant respectfully submits that the present invention as claimed in the amended claims is now in condition for allowance, the earliest possible notice of which is earnestly solicited. If the Examiner feels that a telephone conversation would assist in the prosecution of this application he is directed to contact the undersigned at his convenience.

Respectfully Submitted

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3/18/03